

Terrence McCoy
October 1, 2015

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TRACEY WHITE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Cause No. 14-cv-01490-HEA
)	
THOMAS JACKSON, et al.,)	
)	
Defendants.)	

DEPOSITION OF TERRENCE MCCOY

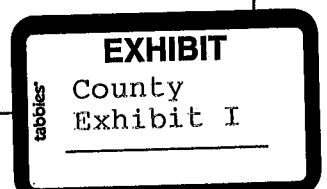
Taken on behalf of the Plaintiffs

October 1, 2015

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1 **Q Neighborhood enforcement team. Tell me about**
2 **what that. What do they do?**

3 A Well, it's almost the same idea as hot spot
4 policing, wherever there was a crime trend within the
5 precinct we would go and try to address that and try to
6 figure out who was involved in what and try to help our
7 detectives procure the cases to stop like -- to prevent
8 like home burglaries, car larcenies, shootings, if there
9 was any kind of like drug activity going on, we would go
10 and pretty much patrol the area and try to build up as
11 much as information as we possibly could to help our
12 detectives out.

13 **Q Okay. So you didn't respond to regular service**
14 **calls, you had a different type of role?**

15 A Yes.

16 **Q Okay.**

17 A We would when the precinct needed help.

18 **Q Okay. And then tactical operations, tell me**
19 **about that.**

20 A Tactical operations unit, we're responsible for
21 being instructors at the academy, we do search warrants,
22 we respond to armed and barricaded subjects, we go out and
23 teach at schools, we train quite a bit.

24 **Q Train who?**

25 A We train other police officers, but we train

1 A Yes.

2 Q **Were you involved in his arrest?**

3 A Yes.

4 Q **And what do you recall about it?**

5 MR. HUGHES: I just object to the form of the
6 question, it's just way overbroad, I mean, I'm just not
7 sure where you want him to start.

8 Q **(by Mr. Lattimer) At the beginning. What's**
9 **your recollection?**

10 A At the beginning of his arrest?

11 Q **Yeah. Your interaction with Mr. Burns and the**
12 **situation giving rise to his arrest.**

13 MR. HUGHES: And just object also to the form,
14 it calls for a narrative. But if you can answer, go
15 ahead, or try to figure out where you first saw him or
16 whatever, how you first got involved, and go from there.

17 A As I recall there was a group of individuals
18 during the night of civil unrest.

19 Q **(by Mr. Lattimer) Where were you at that time?**

20 A On West Florissant.

21 Q **Near what?**

22 A I think Highmont.

23 Q **I'm sorry?**

24 A Highmont, I believe that's the name of the
25 street.

1 Q Okay. So you were on West Florissant near
2 Highmont Street; is that right?

3 A Yes, if I recall, that's the name of the street.

4 Q Okay. And why were you there?

5 A Because of the civil unrest in Ferguson.

6 Q Well, what was the civil unrest that you
7 observed?

8 A Large crowds in the street, there had been
9 multiple days of property being destroyed, police officers
10 that were assaulted by things being thrown at them while
11 trying to keep the situation under control, multiple shots
12 being fired, possibly the people -- people were injured
13 during these events.

14 Q Okay. What I'm asking you is what was the civil
15 unrest that you observed that night at West Florissant
16 near Highmont when you were at that location?

17 A Large crowds throwing rocks at police officers.

18 Q Okay. So large crowds throwing rocks at police
19 officers. How many -- When you say a large crowd, what
20 are you talking about?

21 A Hundreds, I don't know exact number.

22 Q A hundred? More than a hundred, you say?

23 A Hundreds. I don't know the exact number, I
24 couldn't count everybody.

25 Q Okay. But what -- When you looked at the crowd

1 and you made your assessment, what did you make an
2 assessment, that this was a crowd of what, how many?

3 A I'm going to say hundreds, I can't put an exact
4 number on it, I'm just going to say hundreds.

5 Q Hundreds?

6 A A hundred to 200.

7 Q A hundred to 200?

8 A Yeah.

9 Q And you say you saw people throwing rocks?

10 A Yes.

11 Q And how many people did you see throwing rocks?

12 A I can't count, I just was ducking. I don't know
13 how many people were throwing rocks.

14 Q Well, what were you wearing that night?

15 A Brown pants, a black shirt with a police officer
16 vest and a helmet.

17 Q That's it?

18 A That's it.

19 Q Boots?

20 A Oh, I had on boots, I had on socks.

21 Q Okay. You had on boots. I take it you had a
22 utility belt?

23 A Yes.

24 Q And did you have a firearm?

25 A Yes.

1 Q And your TASER, correct?

2 A My TASER.

3 Q And what about Mace or pepper spray or oleo
4 spray, what?

5 A Oleoresin capsicum, OC spray.

6 Q OC spray. And you had a helmet?

7 A I had a helmet.

8 Q Did it have a face mask?

9 A Mine did not.

10 Q Okay. And so you saw people throwing rocks, but
11 you didn't see how many because you were ducking, right?

12 A Yes.

13 Q Okay. So then what happens?

14 A As far as the people throwing rocks?

15 Q No, as far as what did you do. What happened
16 with you? What did you do next?

17 A Well, I was an arrest team, there was a group
18 throwing rocks, they were given several opportunities to
19 disperse.

20 Q How did you do that?

21 A I didn't do it.

22 Q Well, who did it?

23 A One of the units out there had a loud PA, gave
24 several announcements over the public, what do you call
25 it, the PA system.

1 Q To do what?

2 A To disperse.

3 Q Okay.

4 A From the area.

5 Q And so what happened next?

6 A People refused to disperse.

7 Q The people refused to disperse. So they just
8 stood there in the street?

9 A A good portion of them.

10 Q All right. And so what happened after that?

11 A Continued to throw rocks.

12 Q Where are they getting these rocks from?

13 A The ground.

14 Q I've been on Florissant, and Florissant is not a
15 dirt road, is it?

16 A No, it's not.

17 Q It is asphalt, isn't it?

18 A Yes.

19 Q And there aren't any dirt roads leading off of
20 Florissant near Highmont, are there?

21 A Not that I'm aware of.

22 Q Okay. So that's why I'm a little puzzled as to
23 where these rocks are coming from. Are there piles of
24 rocks? Were there piles of rocks on that street back in
25 2014? I think this is August 11th, 2014, right?

1 A Yes.

2 Q Okay. And approximately how many police were
3 out there?

4 A Throughout the whole night, probably seen a
5 couple of hundred.

6 Q Okay. So a couple of hundred police, a couple
7 of hundred people who were not police, right?

8 A Right.

9 Q Okay. And who was your supervisor that night?

10 A Sergeant Ryan.

11 Q Sergeant Ryan was out there?

12 A Yes.

13 Q All right. So at what point did you encounter
14 Mr. Burns?

15 A After a group of people were told to disperse,
16 they continued to throw rocks and they refused to stop
17 throwing rocks, we made a movement, part of the skirmish
18 line made a movement up to try to attempt to get some of
19 those people in custody that were refusing to disperse.
20 And when we got there we were instructed not to chase
21 anybody, a lot of people from that particular group ran,
22 Mr. Burns was not one of those people that ran to
23 disperse, and we approached him and he was taken into
24 custody.

25 Q Okay. So Mr. Burns was still where?

1 saying, it's ambiguous.

2 Q (by Mr. Lattimer) You understand?

3 A Could you rephrase the question?

4 Q Sure. You understand what disperse means,
5 right?

6 A Uh-huh. Yes, sir.

7 Q The law?

8 A Yes.

9 Q And it's for people who are assembled, correct?

10 A Correct.

11 Q You can't tell one person to disperse, because
12 that's not an assembly of people, correct?

13 A He was given a warning over the PA, everybody
14 else, to disperse the area, and at that point there was a
15 certain area that we were trying to make sure was secure,
16 and he was in that area.

17 Q Okay. But the law -- You're a police officer,
18 right?

19 A Yes.

20 Q And you are obligated to understanding the law,
21 right?

22 A Yes.

23 Q And you are supposed to uphold the law, correct?

24 A Yes.

25 Q That's what you're sworn to do, right?

1 **differently, right?**

2 A Somebody else wrote the report. I didn't make
3 the arrest, I wasn't responsible for the report.

4 **Q I'm sorry, I didn't hear the last part.**

5 A I assisted with the arrest, but if I assist
6 somebody else on an arrest and they have a regular call,
7 I'm not the reporting officer on that arrest, the other
8 person writes the report. So regardless of me assisting
9 this officer on the arrest, it's not necessarily my report
10 to write.

11 **Q Okay. So who did you assist?**

12 A Officer Hill, Officer McCann.

13 **Q Officer Hill and Officer McCann?**

14 A (Witness nods.)

15 **Q So who was the actual person making the arrest?**

16 A I believe it was Officer McCann.

17 **Q So Officer McCann was given the responsibility**
18 **of writing the report; is that correct?**

19 MR. HUGHES: Just objection, calls for
20 speculation.

21 A As we were directed, the report was prepared by
22 a different individual.

23 **Q (by Mr. Lattimer) Who? Who prepared it?**

24 A Officer Menzenwerth.

25 **Q Menzenwerth. He was there?**

1 **Q What was placed on a booking sheet?**

2 A Person's name.

3 **Q But you didn't place it there, right?**

4 A No.

5 **Q You didn't even know his name, right?**

6 A When he was arrested?

7 **Q Yeah.**

8 A Yes.

9 **Q How did you learn his name?**

10 A We asked him on the way back, we talked to him.

11 **Q You talked to him, okay. So what did he say to**
12 **you?**

13 A We just asked him what his name was and the
14 booking sheet was completed.

15 **Q Well, you did the booking?**

16 A I did not. We dropped him off, and so when we
17 pass him off, "Here's Mr. Burns, this is what he was
18 arrested for, and these are the officers that were
19 involved."

20 **Q So you talked to Mr. Burns. What was your**
21 **conversation with Mr. Burns about?**

22 A He was transported back, just asked him what his
23 name was, and he was pretty disoriented because he had
24 pepper spray in his face.

25 **Q How did that happen?**

1 **medical treatment?**

2 MR. HUGHES: Object to the form of the question,
3 it's argumentative, it's misleading.

4 A I've never been told to get immediate medical
5 treatment for something like this.

6 **Q (by Mr. Lattimer) I'm sorry?**

7 A No.

8 **Q So you have never been informed that if an**
9 **individual has been sprayed and OC spray has been deployed**
10 **in an individual's eyes that medical treatment is not**
11 **something that should be obtained at the first**
12 **opportunity?**

13 A I'm saying at the first opportunity if they
14 request it, yes.

15 **Q And didn't he do that?**

16 A He didn't ask me for any medical attention.

17 **Q He didn't tell you his eyes were burning and his**
18 **body was burning, that he needed help?**

19 A He told me his eyes were burning, he didn't say
20 that he needed help, he was talking, he was very calm.

21 **Q He said his eyes were burning?**

22 A Yes.

23 **Q I mean, you received training on the use of OC**
24 **spray, right?**

25 A Yes.

1 Q Is that a separate and distinct police
2 department from St. Louis County?

3 A Yes.

4 Q Okay. And so it is your understanding that the
5 deployment of OC spray was done by St. Louis City police
6 as opposed to St. Louis County police?

7 A Correct.

8 Q Okay. And so that would be the reason based on
9 your understanding that a use of force report was not
10 prepared by St. Louis County; is that correct?

11 A Correct.

12 Q Okay. And, now, who did you turn Mr. Burns over
13 to, was that St. Louis City or St. Louis County?

14 A It was St. Louis County.

15 Q Okay. And at that point did you tell them that
16 Mr. Burns had been subjected to OC spray?

17 A Yes.

18 Q All right. Was that -- Did that end your
19 involvement with Mr. Burns at that point?

20 A Yes.

21 Q Okay. Now, afterward, you talked with Detective
22 Menzenwerth, we've discussed, in April of this year,
23 right?

24 A Yes.

25 Q And what was the purpose of that?

1 **Q Okay. What does that mean, interfering with the**
2 **duties of a police officer?**

3 A A police officer is trying to carry out a
4 specific task relative to his job and this person is not
5 allowing that to happen.

6 **Q Okay. What did they do to interfere with the**
7 **duties of a police officer?**

8 A A certain area was trying to be secured, the
9 threat of any kind of property damage or any violent
10 behavior that was occurring, and also to get a truck that
11 was stuck on the grass safely out of the area, they were
12 in a position that was preventing us from doing so.

13 **Q Where were they in relation to the truck?**

14 A Right where it needed to back up to get out of
15 the spot it was stuck in.

16 **Q Have you viewed the video?**

17 A Yes.

18 **Q And when's the last time you reviewed it?**

19 A The last time it was reviewed, Monday, this
20 Monday.

21 **Q Okay. And having reviewed that, you saw them in**
22 **the location where the truck was, either -- the truck**
23 **couldn't back out, is that -- am I understanding that to**
24 **be your position?**

25 A Yes.

1 **Q And you saw that on the video?**

2 **A I saw it when I was there and I saw it on the**
3 **video.**

4 **Q Okay. I'm going to show you the video, and I**
5 **want you to tell me where you see that.**

6 **MR. HUGHES:** Just so I know, you're asking him
7 **where he sees the truck?**

8 **MR. LATTIMER:** No, I'm asking him to look at the
9 **video and then we'll talk about it.**

10 (Whereupon the video is now being played on a
11 computer intermittently throughout the testimony.)

12 **Q (by Mr. Lattimer) Now, that's the truck, right?**

13 **A Correct.**

14 **Q At the corner of Sharondale and Ferguson,**
15 **correct?**

16 **A Correct.**

17 **Q And there's Ms. -- that's Ms. White up the**
18 **street, right?**

19 **MR. HUGHES:** Object to the "up the street."

20 **Q (by Mr. Lattimer) That's her, correct?**

21 **A She's on the street.**

22 **Q That's her, correct?**

23 **A Yes.**

24 **Q Okay. And the truck is back at the corner,**
25 **correct?**

1 A It's in the grass right next to where she's at.

2 Q **It's at the corner, though, correct?**

3 A It's in the grass right next to where she's at.

4 Q **Is it at the corner is my question.**

5 MR. HUGHES: Asked and answered, repetitive.

6 Q **(by Mr. Lattimer) Is that her son, William**
7 **Davis?**

8 A Yes.

9 Q **Okay. And he's being walked over -- There's the**
10 **truck at the corner, correct?**

11 A It's in the grass.

12 Q **Right. And is that the corner is my question.**
13 **There's the stop sign. Is that the corner?**

14 A The trailer is at the corner.

15 Q **And the truck is hooked to the trailer, correct?**

16 A Which is in the grass, yes.

17 Q **Okay. And the trailer and the truck are at the**
18 **corner, correct? There's a stop sign and a street sign,**
19 **correct?**

20 A The trailer is at the corner, the truck is in
21 the grass.

22 Q **And is that the corner?**

23 A The trailer is on the corner, the truck is not.

24 Q **And the truck is attached to the trailer, right?**

25 A Correct.

1 Q Okay. Now, can you show me you in this video if
2 you are there?

3 A You'll have to go back.

4 Q (Indicating,) that's you there?

5 A That is me.

6 Q Okay. So that's you coming up and grabbing her
7 left arm; isn't that right?

8 A Yes.

9 Q Okay. And that's her son being walked back from
10 up the street, right? Was that him?

11 A He's being walked on the street.

12 Q Right. And he was up the street a little bit
13 further, correct?

14 A A little bit further from her location.

15 Q Yes, well, let's look at it again. That
16 unfortunately doesn't want to reverse for me, so we'll go
17 back. Now, there are very few people out there; would
18 that be fair to say?

19 A I can't see, there's a line of police.

20 Q But you don't see many people out there; would
21 that be fair to say?

22 A Right here on this corner?

23 Q Or anywhere in the viewing area of this video.

24 A Well, there are quite a few people there, right
25 in here, and then back up here, (indicating).

1 in harm's way.

2 Q They would have been in harm's way?

3 A Yes.

4 Q So you arrested them to protect them?

5 A Negative.

6 Q All right. So when you say they would be in
7 harm's way, the fact that they were in harm's way had
8 nothing to do with the arrest, you didn't arrest them to
9 protect them, did you?

10 A They were arrested because we asked them to
11 leave the area because of all the events that I stated
12 earlier with people threatening to damage businesses and
13 other things that were going on down there and the
14 addition to us trying to get this truck out of that area
15 safely.

16 Q Okay. But you are the ones who made them go
17 there.

18 A Made who go where?

19 Q Ms. White and Mr. Davis, right?

20 MR. HUGHES: You're asking -- Just object, it's
21 just a little misleading when you say "you asked them."

22 Q (by Mr. Lattimer) You're a police officer, I
23 said you all.

24 MR. HUGHES: Well, I object to the form of the
25 question, it sounds like you're asking him if he knows

1 what other people said, so calls for speculation,
2 conjecture.

3 MR. LATTIMER: I got you.

4 Q (by Mr. Lattimer) You all are the one who got
5 them there in the first place, right?

6 A We instructed them to go into the apartment
7 complex or up the street to the next intersection.

8 Q (by Mr. Lattimer) Wait a minute. They were in
9 the McDonald's, and you all pushed them back from the
10 McDonald's, right?

11 A Correct.

12 Q Then you forced them up Sharondale, right?

13 A Correct.

14 Q I mean, Ferguson, I'm sorry, you forced them up
15 Ferguson, right?

16 A Correct.

17 Q And then you forced them down Sharondale, right?

18 MR. HUGHES: Just object to the argumentative
19 form of the question when you say "forced."

20 MR. LATTIMER: Right.

21 Q (by Mr. Lattimer) Well, they didn't have a
22 choice, right?

23 MR. HUGHES: I'm just objecting, argumentative.

24 MR. LATTIMER: I understand.

25 Q (by Mr. Lattimer) I'm asking you, they didn't

CROSS-EXAMINATION

QUESTIONS BY MR. HUGHES:

Q Actually I have a few questions, because I don't think you went into this and I don't want any surprise -- claim of surprise at trial. Officer McCoy, did you order the arrest of Tracey White?

A No.

Q Now, with regard to William Davis, will you tell us your conversation with Mr. Davis leading up to his arrest?

A At the point that his mom was being arrested he was pretty much given directions to either go into the apartment complex or go further up the street.

Q You say he was pretty much. Will you tell me what you said to him and what he said to you and what you said to him and what he said to you?

A All right. So I told him that he'd still have to leave the area regardless of his mom being arrested, so either to go into the apartment complex or go further up the street to the next intersection. As far as his mom being arrested, he kind of looked over my shoulder and all he said was, "I don't have nowhere to go," and he said, "Don't hurt my mom." I was like, "They're not hurting her, they're trying to get her into custody."

And then after that I was like, "You still have

1 to leave, we're giving you an opportunity to either go
2 into the apartment complex or go up the street." And he
3 kind of stared at me, didn't say anything. I was like,
4 "Okay, now you're going to be arrested, I'm going to have
5 to arrest you if you don't choose either to go into the
6 apartment complex or up the street." And he still kind of
7 stayed there and stared at me, so then at that point I
8 placed him under arrest.

9 Q Okay. And then when you placed him under
10 arrest, did he offer any resistance?

11 A No resistance, he was completely compliant, he
12 still didn't say anything.

13 Q Okay. Thank you. I don't have no other
14 questions.

15
16 REDIRECT EXAMINATION

17 QUESTIONS BY MR. LATTIMER:

18 Q I'm trying to understand something. At the time
19 he was taken into custody, you were with his mother?

20 A No, he was not arrested. When you saw him in
21 that video, he was not under arrest.

22 Q What do you call that?

23 A Maybe detained, but he was not in handcuffs.

24 Q Well, what was -- Handcuffs has nothing to do
25 with an arrest. You can put people in handcuffs and not